

**BOARD OF ADJUSTMENT MINUTES – MAY 20, 2004**

Present: Len Harten, Chairman  
Rick Westergren, Vice-Chairman  
Kathy Bauer  
Kathy Maher  
Bob Levenson  
  
Shirley Carl, Recording Secretary

Case # 9-04 Eber Currier, Rte. 13, South – Map 48, Lot 14 - Commercial District Special  
Exception from Article II, Para 2.031.C to construct an addition to an existing storage building.

Motion to approve \_\_\_\_\_

Seconded by \_\_\_\_\_

Signed \_\_\_\_\_

Date \_\_\_\_\_

1  
2 L. Harten, Chairman opened the meeting at 7:30 PM by stating that the hearing is held in  
3 accordance with the Town of Milford Zoning Ordinances and the NH Statutes.

4  
5 The notice of hearing and abutter list was read into the record. Eber Currier, owner and Bill  
6 Davidson of Meridian Land Services were present; no abutters.

7  
8 B. Davidson gave the presentation.

9 1. The addition is to be added to existing storage building #1—the addition will be 1100 SF.

10 2. The use will not change.

11 3. Zoning is ICI, not in Floodplain or Aquifer Protection District.

12 4. Received special exception in 2001 for buildings #15 & 16; also received PB approval in  
13 2002.

14  
15 He then went to the criteria for a Special Exception.

16 A. The proposed use shall be similar to those permitted in the district - this use is permitted in  
17 the district and has been for many years.

18 B. The specific site is an appropriate location for the proposed use - it is an existing use

19 C. The use as developed will not adversely affect the adjacent area – it is an existing site and  
20 won't adversely affect the area.

21 D. There will be no nuisance or serious hazard to vehicles or pedestrians – existing use and site

22 E. Adequate appropriate facilities will be provided for the proper operation of the proposed use  
23 – it is an existing use and all that is required is already on the site.

24  
25 K. Bauer requested that Bill address the two items under 2.031.C - Non-conforming use. Mr.  
26 Davidson did so.

27 1. The proposed alteration/expansion/change will not change the nature of the original use -  
28 this addition on an existing site will not change the nature of the use as exists;

29 2. The proposed alteration/expansion/or change would involve no substantially different affect  
30 on the neighborhood - there won't be any change to the neighborhood due to an 1100 SF  
31 addition.

32  
33 There was discussion as to how many units will be removed/added.

34  
35 No further comments from the Board/audience.

36  
37 Hearing closed at 7:42 pm.

38  
39 The Board went directly to the voting – no discussion

40  
41 1. Is the exception allowed by the ordinance?

42 K. Bauer – Yes      K. Maher – Yes      R. Westergren – Yes      B. Levenson – Yes

43 L. Harten – Yes

44  
45 2. Are the specified conditions present under which the exception may be granted?

46 K. Bauer – Yes      K. Maher – Yes      R. Westergren – Yes      B. Levenson – Yes

47 L. Harten – Yes

48  
49 A motion was made by B. Levenson; seconded by R. Westergren; all in favor.  
50 30-day appeal period.

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4  
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8  
9

10 Present: Len Harten, Chairman  
11 Rick Westergren, Vice-Chairman  
12 Kathy Bauer  
13 Kathy Maher  
14 Bob Levenson  
15  
16 Shirley Carl, Recording Secretary  
17  
18  
19

20 Case 10-04 - Hampshire Hills Racquet & Health Club – Special Exception from Article V, Para.  
21 5.022.J to develop recreational sports fields located on Emerson Rd., Map 48, Lot 41 – Res. "A"  
22 district.  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

34 Motion to approve \_\_\_\_\_

35  
36 Seconded by \_\_\_\_\_

37  
38 Signed \_\_\_\_\_

39  
40 Date \_\_\_\_\_  
41  
42

1 L. Harten, Chairman opened the meeting at 7:50 PM by stating that the hearing is held in  
2 accordance with the Town of Milford Zoning Ordinance and the NH Statutes.

3  
4 The notice of hearing and abutter list was read into the record.

5  
6 Present - Rick Holder, owner; J. Heavisides of Meridian Land Services; abutters – Catherine  
7 Kendall; Doris Fay and Herve Jacob.

8  
9 J. Heavisides made the presentation:

10 1. The request is for a soccer field on the southern portion of the facility – Map 48, Lot 41. It  
11 is the "T" shaped lot.

12 2. The second soccer field in the southwest is no longer part of the proposal.

13 3. The zoning line is along the northern line of lot 41; goes across 41 to the corner of 44; north  
14 of that is commercial and to the south is Res. "A".

15 4. J. Heavisides presented "Exhibit A" which addresses the special exception criteria. (see file)

16  
17 The fields will be lighted and the only person that could possibly see the lights, when  
18 the leaves are off the trees. The lights would be on until 9:00 p.m. with the possibility of  
19 occasionally 11:00 pm.

20 There was a question as to the wording of the notice i.e. "fields" v "field". Some  
21 discussion ensued but it was resolved to leave it as is.

22 It was noted that this field has been in existence and use for five years. No complaints  
23 had been received.

24 K. Bauer made a point that if they expect to use the field to the west, they would have  
25 to return to the ZBA.

26  
27 Abutter comments –

28 Doris Fay was still concerned regarding her well. R. Holder explained that her well elevation is  
29 considerably higher than her well location. No insecticides will be used near her well. The types  
30 of fertilizers that we use are organic. The field location is considerably lower than her well and  
31 is about 800' away. After explanation by J. Heavisides, Mrs Fay was satisfied for now.

32  
33 H. Jacob has no problem with the request. C. Kendall has no issues.

34  
35 No further comments, L. Harten closed the open portion of the hearing at 8:08 P.M.

36  
37 Discussion - B. Levenson questioned if the notice of hearing should be changed to read "field".  
38 The Board didn't have any problem. K. Bauer felt that no one would think it referenced the  
39 field to the west.

40  
41 Vote as follows:

42 1. 1. Is the exception allowed by the ordinance?

43 K. Bauer – Yes / K. Maher – Yes / R. Westergren – Yes / B. Levenson – Yes / L. Harten – Yes

44  
45 2. Are the specified conditions present under which the exception may be granted?

46 K. Bauer – Yes / K. Maher – Yes / R. Westergren – Yes / B. Levenson – Yes / L. Harten – Yes

47  
48 A motion was made by K. Bauer; seconded by K. Maher; all in favor.

49  
50 30-day appeal period.

**BOARD OF ADJUSTMENT MINUTES – MAY 20, 2004**

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Bob Levenson  
  
Shirley Carl, Recording Secretary

Case # 11-04 William Mahar & Cheryl Spaulding – 19 Perry Rd. – Map 7, Lot 25 – Industrial District – to allow an auto repair garage – Special Exception – Article V, Para. 5.061

Motion to approve \_\_\_\_\_

Seconded by \_\_\_\_\_

Signed \_\_\_\_\_

Date \_\_\_\_\_

1 Chairman Harten opened the meeting at 8:15 PM by stating that the hearing is held in  
2 accordance with the Town of Milford Zoning Ordinance and the NH Statutes.

3  
4 The notice of hearing and abutter list was read into the record - Present - William Mahar and  
5 Cheryl Spaulding, applicants and Harold & Ada Tardiff, owners.

6  
7 C. Spaulding made the presentation.

8 1. Take existing house with a building that is being used as an industrial repair facility; move  
9 into the house and take the building that is being used as an industrial repair facility and turn it  
10 into a commercial repair facility.

11 2. Down the road they intend to upgrade the lot i.e. flowers, paving, etc.

12 3. Parking – they expect about five vehicles (ten being the maximum); they would park along  
13 the side and a little bit to the front. At least two of the vehicles would be inside the building  
14 being repaired. It was noted that the present owners are still living there.

15  
16 L. Harten stated that they would actually be downgrading the size of the vehicles that will be  
17 repaired. Previously, trucks and heavy equipment had been worked on. K. Bauer questioned  
18 what the little building between the house and commercial building would be used for and was  
19 informed it would be for personal vehicles.

20  
21 The fact that the site is on the aquifer and in a flood protection zone was brought up. She was  
22 asked if the matter of waste oil, etc. had been discussed with Kevin. Kevin realized that they  
23 would have to set up arrangements for disposal of waste oil, etc. He didn't think it would be a  
24 problem since it is a similar use.

25  
26 K. Bauer brought up a land use issue that she has a problem with for discussion. This is an  
27 industrial zone and house is a grandfathered residential use, at this time residential is not  
28 allowed in the industrial district. We have a grandfathered residence, an industrial building in  
29 an industrial zone and you are requesting a commercial use. That gives us a non-conforming  
30 residential use in industrial and on the same lot a proposal to put a commercial use. There is a  
31 mixed use on one lot, neither is allowed but one is grandfathered. Auto repair shop is a  
32 commercial use. The repair of heavy equipment and trucks has been allowed but if someone  
33 were to come in asking for a new use i.e. auto repair, she would have a problem. Her problem  
34 is because it is a mixed use and also it is in the industrial district that is our strictest district with  
35 the least amount of acceptable uses and has no uses by special exception. It is a very strict  
36 zone. This is a mixed use.

37  
38 K. Maher felt that the difference wouldn't be that great. If anything the impact will be less. K.  
39 Bauer felt that we should look at what it is and not what we want it to be. L. Harten discussed  
40 this matter with Kevin sent them to the Board because it is a change of use and where does  
41 one draw the line between industrial to commercial. K. Bauer then stated that the definition of  
42 a lot allows only one use. R. Westergren felt it was the same type of activity on a smaller scale.

43  
44 K. Maher then brought up the issue of wetlands and aquifer. Ms. Spaulding mentioned there is  
45 a brook that runs through on the far side of the lot. B. Levenson stated that the Conservation  
46 Commission didn't have a problem as we didn't get any response. K. Maher questioned if the  
47 parking of the vehicles is in a paved area and she was informed that they were planning on  
48 paving it.

49  
50 The Board wanted this plan to go before the Planning Board for approval.

1  
2 The criteria were then discussed. See the application as all the questions were answered.  
3

4 K. Bauer then mentioned that if granted it goes with the land but that doesn't mean that  
5 someone couldn't change it back to industrial but after you are done, you can sell it as  
6 commercial. K. Bauer mentioned many times that her concern wasn't personal and  
7 complimented her on her answers.  
8

9 Proposal of a condition - Site plan review required.  
10

11 The open portion of the meeting was closed at 8:45 p.m.  
12

13 No further discussion – vote was taken with the condition that the applicant go to the Planning  
14 Board for site plan review.  
15

16 1. Could the variance be granted without diminishing the value of abutting property?

17 K. Maher – Yes K. Bauer – Yes R. Westergren – Yes

18 B. Levenson – Yes L. Harten - Yes  
19

20 2. Would granting the variance be of benefit to the public interest?

21 K. Maher – Yes K. Bauer – No R. Westergren – Yes

22 B. Levenson – Yes L. Harten - Yes  
23

24 3. Would denial of the variance result in unnecessary hardship?

25 K. Maher – Yes K. Bauer – No R. Westergren – Yes

26 B. Levenson – Yes L. Harten - Yes  
27

28 4. Would granting the variance do substantial justice?

29 K. Maher – Yes K. Bauer – No R. Westergren – Yes

30 B. Levenson – Yes L. Harten - Yes  
31

32 5. Could the variance be granted without violating the spirit of the ordinance?

33 K. Maher – Yes K. Bauer – No R. Westergren – Yes

34 B. Levenson – Yes L. Harten - Yes  
35

36 Motion by B. Levenson to approve the variance; seconded by R. Westergren. Vote as follows –  
37 All in favor with K. Bauer being the dissenting vote.  
38

39 Thirty-day appeal period.  
40  
41

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Present: Len Harten, Chairman  
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Kathy Bauer  
Kathy Maher  
Bob Levenson  
  
Shirley Carl, Recording Secretary

Case # 12-04 Kathleen Gray, 36 Cottage St. – Map 25, Lot 85 - Commercial District Special Exception from Article V, Para 5.025.C to construct a storage an 8x12 storage shed 3' from the property line.

Motion to approve \_\_\_\_\_

Seconded by \_\_\_\_\_

Signed \_\_\_\_\_

Date \_\_\_\_\_



1 Chairman Harten opened the hearing at 8:54 PM by stating that the hearings are held in  
2 accordance with the Town of Milford Zoning Ordinance and the NH Statutes.

3  
4 The notice of hearing and abutter notice was read into the record. Present – Kathleen Gray

5  
6 Her purpose in being before the Board is to erect a storage shed 3' from the property line. Her  
7 property abuts Milford Power Equipment. The shed is 75% completed. Mr. Abaid informed  
8 Mrs. Gray that he didn't have any problem with the request. L. Harten stated that if the shed  
9 were to be moved in 6' it would interfere with her back yard.

10  
11 Due to the fact that this is such a simple case, a motion was made by K. Maher, seconded by R.  
12 Westergren to waive the discussion of the criteria, all in favor.

13  
14 No questions, the Board proceeded to vote.

15  
16 1. Is the exception allowed by the Ordinance?

17 K. Bauer – Yes            K. Maher – Yes            R. Westergren – Yes

18 B. Levenson – Yes    L. Harten – Yes

19  
20 2. Are the specified conditions present under which the exception may be granted?

21 K. Bauer – Yes            K. Maher – Yes            R. Westergren – Yes

22 B. Levenson – Yes    L. Harten – Yes

23  
24 A motion was made by K. Maher, seconded by B. Levenson, all in favor.

25  
26 30 day appeal period.